

SHOSHONES, BANNACKS, AND SHEEPEATERS INDIANS.

JUNE 25, 1888.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. PERRY, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 10625.]

The Committee on Indian Affairs, to whom was referred House bill 5004, to accept and ratify the agreement submitted by the Shoshones, Bannack, and Sheepeater tribes of Indians of Fort Hall and Lemhi Reservations, in Idaho, May 14, 1880, and for other purposes, have considered the same, and recommend the passage of the following substitute, and also ask to embody in this report the accompanying letter from Commissioner Atkins, which is made a part hereof, which explains the bill.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 23, 1888.

SIR: In reply to a request of the chairman of the House Committee on Indian Affairs, dated the 10th instant, and referred directly to this office for such information as this office may have touching the inclosed bill (H. R. 5004, Fiftieth Congress, first session), entitled "A bill to accept and ratify the agreement submitted by the Shoshones, Bannacks, and Sheepeaters of the Fort Hall and Lemhi Reservations, in Idaho, May 14, 1880, and for other purposes," I have the honor to report as follows:

The agreement in question was originally entered into with a delegation of certain of the chiefs and head-men of the tribes named, then on a visit to this city.

It provides—

(1) For the surrender of the Lemhi Reservation and for the removal of the Indians thereof to, and their settlement upon, lands in severalty of the Fort Hall Reservation.

(2) For the cession to the United States of a portion of the southern half of the Fort Hall Reserve therein, more particularly described and delineated on the map accompanying this report, embracing an area of 325,760 acres, and for allotments in severalty of the remaining lands of the reservation to the Indians represented in the agreement, in certain proportions, in manner and subject to the restrictions in the agreement mentioned; also for the issue of patents in respect of the lands so allotted.

The consideration to be paid by the United States for such cessions, to the Lemhi Indians \$4,000 per annum for twenty years, and to the Fort Hall Indians \$6,000 per annum for a like term, the same to be in addition to any sums to which said Indians are entitled by treaty, and all provisions of existing treaties, in so far as they relate to funds to remain in full force and effect.

The Fort Hall Reservation was designated by Executive orders of June 14, 1867, and July 30, 1869, as that intended to be provided for the Indians of southern Idaho, including the Bannacks, by the second article of the treaty of July 3, 1868 (15 Stats., 674). It contains a total area of 1,202,230 acres, with an Indian population of about 1,500. That portion of the reservation agreed to be ceded has never been occupied by the Indians, and is said to include the whole of "Marsh Valley," and numerous settlements and improvements of white settlers therein, alleged to have been made prior to the issuance of the Executive orders setting aside the reservation, and estimated by the settlers to be worth about \$140,000.

The Lemhi Reserve was set aside by Executive order dated February 12, 1875, in lieu of a certain tract provided for in the third article of an unratified treaty, concluded at Virginia City, Mont., September 24, 1868. It contains 64,000 acres, with

a population of between 500 and 600 Indians. It is said to be better adapted to stock-raising than agricultural purposes. Statistics of 1886 give the whole number of acres tillable at 1,000 only.

It will be observed that the original agreement was signed by seven only of the chiefs and head-men of the respective tribes.

It was afterwards, by supplemental memorandum of agreement dated November 14, 1881, on file in this office, ratified, so far as the Fort Hall Indians were concerned, by a majority, numbering some 250, of all the adult male members of the Shoshone and Bannack tribes occupying or interested in the lands of the Fort Hall Reservation.

The Lemhi Indians, however, refused to release their reservation and remove to Fort Hall, claiming that their chiefs signed the agreement under a misapprehension.

At the first session of the Forty-seventh Congress, house bill No. 3503, amended so as to ratify the agreement in so far only as the Fort Hall Indians were concerned, was favorably reported by the House Committee on Indian Affairs, but was not reached on the Calendar. The views of the committee will be found in House Report No. 658, Forty-seventh Congress, first session.

At the second session of the Forty-eighth Congress, Senate bill 1008, accepting and ratifying the agreement in its entirety, as recommended by this office in a report to the Department dated November 27 and December 1, 1883 (see Senate Ex. Doc. No. 19, Forty-eighth Congress, first session, pp. 2, 3), was passed by the Senate (December 19, 1884) but was not acted upon by the House.

Since that time the matter has practically remained in abeyance.

I concur with my predecessor in office (Hon. H. Price) in thinking that it would be for the best interest of both the Government and the Indians that the Lemhi Indians, who belong to the same tribes should remove to Fort Hall, where there is said to be ample agricultural land and abundant water for irrigating purposes. It would tend to the consolidation of the Indians, and be a saving of expense to the Government in the reduction of agencies.

Whilst the same or similar results as are contemplated by House bill No. 5004 may in the course of time be reached under the provisions of the general allotment act, I see no objection so far as the Indians are concerned to the passage of the bill, with the following amendments:

Enacting section, lines 3, 4, and 5, strike out the words "so far as the same relates to the Shoshones, Bannacks, and Sheepeaters of the Fort Hall Reservation," so as to make the sentence read "That said agreement be, and the same is hereby, accepted, ratified, and confirmed."

Same section, line 6, strike out the words "executed by a majority," and in lieu thereof insert the words "assented to by a duly certified majority."

Same section, line 12, immediately after the parenthesis and before the word "and" insert the following words: "as appears by supplemental memorandum attached thereto, dated the 14th day of November, 1881, on file in the office of the Commissioner of Indian Affairs."

Same section, line 27, after the word "down" insert the word "and."

Same section, line 29, after the word "Creek" insert the words "thence up Marsh Creek."

Same section, line 36, add the letter "s" to the word "survey."

Same section, line 41, after the word "and" insert the word "to."

Same section, line 52, strike out the word "such" and substitute the word "each."

Same section and line, strike out the words "of age" to conform to original agreement.

Same section, line 58, add the letter "s" to the word "selection."

Same section, line 59, after the word "Indians" strike out the word "of"

Same section, line 69, after the word "grantee" strike out the word "of" and substitute the word "or."

Same section, line 73, strike out the words "of the United States" not found in the original agreement.

Same section, line 76, for the same reason, after the word "done," strike out the word "in" and substitute the word "at."

Same section and line, strike out the sign "14th" and substitute the word "fourteenth," as in original.

Same section, line 77, for the same reason strike out the figures "1830," inclosed in parentheses.

Same section, line 81, strike out the name "Dobson" and substitute "Gibson."

Same section, line 86, strike out the name "Stock" and substitute "Stock."

Same section, line 88, strike out the name "Grutes" and substitute "Gentes."

Section 2, line 6, strike out the word "the" before the word "land."

Section 3, line 9, after the word "first" and before the word "twenty," insert the word "of," so as to read "for the first of twenty installments," etc.

Add a section, as follows:

"Sec. 4. That this act, so far as the Lemhi Indians are concerned, shall take effect only when the President of the United States shall have had presented to him satis-

factory evidence that the agreement herein set forth has been accepted by a majority of all the adult male members of the Shoshone, Bannack, and Sheepeater tribes occupying the Lemhi Reservation, and shall have signified his approval thereof."

There is, however, one peculiar feature in the agreement of May 14, 1880, which heretofore appears to have escaped notice, and to which I desire to call the attention of the Department and that of the committee.

It will be observed that the language of the agreement, after describing the boundaries of the lands proposed to be ceded, proceeds thus: "Including also such quantity of the north side of Port Neuf River as H. O. Harkness may be entitled to enter under existing law, the same to be conformed to the public survey, so as to include the improvements of said Harkness."

Thouching this same Mr. Harkness, for whose benefit this special provision is made, I make the following extract from a report made by Special Indian Agent Parsons to this office, January 9, 1886, upon the completion of an investigation of the affairs of the Fort Hall Agency.

"* * * I also visited McCammon station, which is the junction of the Oregon Short Line Railroad with the Utah and Northern Railroad on the reservation, to inquire by what authority one H. O. Harkness has built a house, keeps a hotel, cultivates lands, has fields of grain and hay, a large stock of horses and cattle, all on the reservation, and trades with the Indians without a license, and beg leave to report as follows: From the biographical record of H. O. Harkness, presumably furnished by himself, in the 'History of Idaho,' and published in 1884, by Wallace W. Elliott & Co., of San Francisco, I find that 'in the spring of 1870 he came to Port Neuf toll gate (near McCammon station, and on the reservation), and engaged in stock-raising and the toll business. August 14, 1871, he married Mrs. Catharine Murphy, and has resided here ever since (shortly after this he started a bank at Corinne, Utah, and in 1878 removed his bank to Ogden, Utah). Mr. Harkness farms about 100 acres of land, raising mostly cereals, although potatoes and other vegetables do splendidly here. He raised about 4,000 bushels of grain and 1,000 bushels of potatoes this season (1883). He also owns 1,600 acres in Round Valley, near Oxford, which he uses for winter pasture. He owns a herd of 7,500 head of cattle and a fine band of horses and mules. He pays a great deal of attention to good breeds of horses, cattle, mules, and imports the best stock. Mr. Harkness has lately built a fine two-story hotel at McCammon station, where the traveler and sportsman will find good accommodations. He also has in connection with the hotel a fine feed and sale stable."

"From my observation I think that Mr. Harkness at the present time cultivates several hundred acres of ground on the reservation, and his immense herds of cattle, mules, and horses occupy a large part of the available grazing land of the southern half of the reservation. His biography makes no mention of the store connected with his hotel, but he has a store, and a very good one, in one end of which is also a post-office. His barns and corrals are fine and extensive. His buildings are worth probably \$75,000, and in his back yard he has fenced in one of the noblest water-powers in the United States, where the Port Neuf River, a deep, rapid, and unfailing mountain stream, takes a perpendicular leap of 18 feet. This water-power is worth an immense sum of money. Mr. Harkness bases his claim to this land and water on his marriage to Mrs. Catharine Murphy, referred to in the above biographical sketch, and Mrs. Catharine Murphy bases her claim upon an act of the Idaho legislature, approved January 5, 1866, authorizing William S. Halsey, Paul Coburn, and John N. Todd to build a wagon road from Deep Creek to Ross Fork of Snake River, and collect tolls thereon.

"It seems that the former husband of Mrs. Catharine Murphy bought the rights of the original incorporators under this bill.

"In January, 1881, Mr. Harkness removed his toll-gate and ceased maintaining the wagon road from Deep Creek to Ross Fork. As he never occupied any portion of this land under a title from the United States, it seems clear that he has no present right of possession or occupancy independent of the question whether an act of the Idaho legislature would give him any shadow of right to maintain a wagon road and toll-gate and occupy land on an Indian reservation. He is simply an intruder, and if the reservation is to be kept for the use of the Indians, he should be treated with the same rigor as a poor man and removed from the reservation. If the reservation, or the southern portion of it, is to be thrown open to settlement, Mr. Harkness will possess a great advantage over other settlers by reason of being in possession of the most desirable land, unless he is removed before the reservation is open for settlement."

It seems to me eminently proper that the committee should have this information before it in considering the bill.

Very respectfully, your obedient servant,

J. D. C. ATKINS,
Commissioner.

The SECRETARY OF THE INTERIOR.